

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
THOMASVILLE DIVISION**

DERRICK LAMONT COCHRAN,	:	
Petitioner,	:	
v.	:	6:07-CV-016 (WLS)
THOMAS COUNTY DETECTIVES	:	
OFFICE, et. al.,	:	
Respondent.	:	

ORDER

Before the Court is a Report and Recommendation from United States Magistrate Judge G. Mallon Faircloth filed April 19, 2007, recommending that Petitioner's Motion to Proceed *In Forma Pauperis* (Doc. 1) be granted and separately that Petitioner's Complaint be dismissed as legally frivolous and failing to state a cause of action. (Doc. 4). Petitioner filed a timely objection on May 9, 2007. (Doc. 5).

In the Recommendation, it was found that Petitioner is unable to pay the cost of this action. It is therefore recommended that Petitioner's Motion to Proceed *In Forma Pauperis* (Doc. 1) be granted. (Doc. 4). It is noted, however, that 28 U.S.C. § 1915(b)(1) requires a prisoner who has been permitted to proceed *in forma pauperis* to pay the full filing fee via assessment of an initial partial filing fee and subsequent monthly payments until the full filing fee is recovered. *Id.* It is therefore recommended that Petitioner be assessed an initial partial filing fee and that each month thereafter, the Warden of the institution where Petitioner is incarcerated or the Sheriff of the county wherein he is held in custody cause to be remitted to the Clerk of this court twenty percent (20%) per month of his prison account until the \$350.00 filing fee is paid in full. *Id.* Petitioner does not object to these recommendations. (*See* Doc. 5). Upon further review, the Court finds it necessary to state, consistent with Section 1915(b)(1)(a) that the initial partial filing fee assessed shall consist of twenty percent (20%) of the greater of

the average monthly deposits to Petitioner's prison account or the average monthly balance in said account for the six (6) month period immediately preceding the filing of the Complaint.

In the Recommendation, it was also found that Plaintiff's claims of defamation on the part of employees of "Multiple Media News Outlets" do not allege deprivation of any federally protected right or that any such right was violated by a person acting under color of state law. It is therefore recommended that the Complaint be dismissed against any "Multiple Media News Outlets" defendant such as said entities may exist as legally frivolous and failing to state a claim upon which relief may be granted. (Doc. 4). As to the Thomas County Detectives Office and Timothy Watkins defendants, it was found that the Complaint fails to make any allegations of involvement sufficient to establish a causal connection between these defendants and any deprivation of constitutional rights which allegedly occurred. It is therefore recommended that the Complaint be dismissed against these defendants as legally frivolous and failing to state a claim upon which relief may be granted. *Id.* Furthermore, it was found that Thomas County Detectives Office is not a legal entity capable of being sued. It is therefore recommended that the Complaint be dismissed against this defendant on these alternate grounds. *Id.* There remaining no other defendants other than those aforementioned, it is recommended that Plaintiff's Complaint be dismissed in its entirety. *Id.*

In his objection to the recommendation for dismissal, Petitioner recasts and reasserts arguments which were previously considered by the Magistrate Judge. Upon further review, the Court finds that the objection does not demonstrate that the Magistrate Judge made any clear errors in law or findings in recommending that Petitioner's Motion to Proceed *In Forma Pauperis* (Doc. 1) be granted and that the Complaint (Doc. 2) be dismissed. Accordingly, Petitioner's objections (Doc. 5) are **OVERRULED**.

Wherefore, upon full review and consideration upon the record, the Court finds that the Report and Recommendation (Doc. 4) as modified herein should be, and hereby is, **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and

reasons stated therein, together with the findings made and conclusions reached herein. Petitioner's Motion to Proceed *In Forma Pauperis* (Doc. 1) is **GRANTED**; and this Complaint (Doc. 2) is **DISMISSED**.

It is further **ORDERED** that pursuant to the mandates of 28 U.S.C. § 1915(b)(1) an initial partial filing fee shall be assessed against Petitioner's prison account, which shall consist of twenty percent (20%) of the greater of the average monthly deposits to Petitioner's prison account or the average monthly balance in said account for the six (6) month period immediately preceding the filing of the Complaint. Each month thereafter, the Warden of the institution where Petitioner is incarcerated or the Sheriff of the county wherein he is held in custody is **ORDERED** to cause to be remitted to the Clerk of this court twenty percent (20%) per month of Petitioner's prison account until the \$350.00 filing fee is paid in full. Petitioner's custodian shall be served with a copy of this Order.

SO ORDERED, this 25th day of May, 2007.

/s/W. Louis Sands
THE HONORABLE W. LOUIS SANDS,
UNITED STATES DISTRICT COURT